

DW 06-073

PENNICHUCK WATER WORKS, INC.

Petition for Permanent and Temporary Rates

Order Approving Temporary Rates

O R D E R N O. 24,668

September 22, 2006

APPEARANCES: McLane, Graf, Raulerson & Middleton, P.A., by Sarah B. Knowlton, Esq. for Pennichuck Water Works, Inc.; Ransmeier & Spellman, P.C., by Dom D'Ambruoso, Esq. for Anheuser-Busch, Inc.; Office of the Consumer Advocate by Acting Consumer Advocate Kenneth Traum, on behalf of residential ratepayers; and Marcia A. B. Thunberg, Esq. for the Staff of the New Hampshire Public Utilities Commission.

I. PROCEDURAL HISTORY

On June 16, 2006, Pennichuck Water Works, Inc. (PWW) filed revised tariff pages with the New Hampshire Public Utilities Commission designed to increase PWW's revenues by \$6,091,633 or 36.49 percent on an annual basis over its current authorized level of rates. PWW proposed that the increase be broken into two parts – an initial increase of 15.91 percent and a step increase of 20.58 percent. PWW proposed that the rate increase take effect on a bills-rendered basis as of August 1, 2006. On the same day, PWW also filed a petition for a temporary rate increase, pursuant to RSA 378:27, in the revenue amount of \$2,529,083, or 15.15 percent, over current rates.

On July 13, 2006, by Order No. 24,646, the Commission suspended the proposed revisions to PWW's permanent rate tariffs pursuant to RSA 378:6, pending investigation and decision thereon; scheduled a prehearing conference and technical session for August 1, 2006; and ordered that PWW publish notice of the hearing. The OCA filed a notice of participation. The City of Nashua (Nashua), Anheuser-Busch, Inc., and customers Barbara Pressly, Fred Teeboom, and Claire McHugh all moved to intervene and the Commission granted the interventions.

On August 1, 2006, Staff and the parties filed a proposed procedural schedule with the Commission, which was approved by secretarial letter dated August 7, 2006. Staff and the parties conducted discovery pursuant to that schedule and, on September 6, 2006, the Commission held a hearing at which PWW, Staff, OCA and Anheuser-Busch presented a settlement agreement relating to proposed temporary rates. Staff witnesses James L. Lenihan and Jayson P. Laflamme testified in support of the agreement on temporary rates as did Bonalyn J. Hartley on behalf of PWW.

II. POSITIONS OF THE PARTIES AND STAFF

A. Pennichuck Water Works, Inc., Office of the Consumer Advocate, Anheuser-Busch, Inc and Staff.

The positions of PWW, OCA, Anheuser-Busch and Staff were embodied in the settlement agreement as follows:

A. INCOME REQUIREMENT

The settling parties request the Commission grant PWW a 14.41 percent overall increase in revenues based on an adjusted net operating income requirement of \$2,618,935. The settling parties stated this increase in revenues results in a revenue requirement of \$19,030,469 for purposes of temporary rates. The settling parties stipulate that this net operating income requirement and resulting revenue requirement represent a reasonable compromise of all issues relating to the revenue requirement pending before the Commission for purpose of temporary rates, including allowed overall rate of return, return on equity, capital structure, *pro forma* adjustments, capital additions to PWW's rate base, and operating expenses. The settling parties stipulated that the temporary rates derived from the revenue requirement are just and reasonable.

B. RATE DESIGN

The settling parties agree that, for purposes of temporary rates, it is reasonable to maintain PWW's present rate design and, as stated in PWW's initial filing, to recover the revenue increase resulting from the agreement from all customers except private and public fire protection customers. The settling parties' state this rate design is supported by PWW's most recent cost of service and rate design study dated July 2001, which

indicated that fire protection revenues were sufficient to earn an adequate rate of return. The impact of the temporary rate increase is reflected on Schedule A to the agreement.¹

C. EFFECTIVE DATE AND RECOUPMENT

The settling parties propose that temporary rates be effective for service rendered on and after July 18, 2006. The settling parties agree that PWW shall reconcile any difference between temporary and permanent rates approved by the Commission in this docket upon approval of such permanent rates.

B. City of Nashua

The City of Nashua appeared at the hearing held on September 6, 2006, but took no position regarding the proposed temporary rates.

III. COMMISSION ANALYSIS

Pursuant to RSA 378:27, the Commission may authorize temporary rates for the duration of the proceeding if the public interest so requires and the records of the utility indicate it is not earning a reasonable return on its property used and useful in the public service. The standard for approval of temporary rates, which are fully reconcilable, is less stringent than that for permanent rates. *Appeal of Office of Consumer Advocate*, 134 N.H. 651 (1991).

We have reviewed the evidence presented regarding temporary rates, which demonstrates, based on PWW's books and records on file with the Commission, that the company is presently underearning. The temporary rates set forth in the settlement agreement also serve to mitigate potential rate shock to customers and reduce the magnitude of any recoupment between temporary rates and permanent rates at the conclusion of this docket. Therefore, we find, that the proposed rate increases are appropriate, just, and reasonable.

¹ According to Schedule A, the temporary rate would be applied to General Metered customers at 16.96 percent; Private Fire Protection at 0 percent; Public Fire Protection at 0 percent; Anheuser-Busch Special Contract at 16.96 percent; Milford Special Contract base charge at 0 percent and volumetric charge at 16.96 percent; Hudson Special Contract base charge at 0 percent and volumetric charge at 16.96 percent. The averaged percent increase is \$14.41 percent.

We recognize that the percentage increase for rates may change as we consider PWW's proposed allocation of the increase in its permanent rate case. The reconciliation mechanism found in RSA 378:29 will adequately protect customers in the event we decide that different permanent rate increases should be applied to certain rate groups. This provision reconciles temporary rates collected from customers during the Commission's investigation with approved permanent rates such that customers will ultimately pay no more than the approved permanent rates.

With respect to the effective date, we find that making temporary rates effective for service rendered on and after July 18, 2006, is reasonable. PWW filed a notice of intent to file rate schedules on May 9, 2006, and filed revised tariffs on June 16, 2006. Order No. 24,646, (July 13, 2006) notified the public of PWW's rate case filing; suspended PWW's proposed tariffs; and established a prehearing conference and temporary rate hearing. Additional notice that rates would be subject to change was provided by PWW's publication of Order No. 24,646 in The Telegraph and the Union Leader on July 18, 2006. It was on this date that we conclude customers were placed on notice of the pendency of this proceeding and of PWW's request to increase rates.

Based upon the foregoing, it is hereby

ORDERED, that Pennichuck Water Works, Inc.'s request for temporary rate increases is **GRANTED**, on a service rendered basis effective for service rendered on or after July 18, 2006, as detailed above; and it is

FURTHER ORDERED, that Pennichuck Water Works, Inc. shall submit tariff pages in compliance with this order within 15 days of the date of this order.

By order of the Public Utilities Commission of New Hampshire this twenty-second day
of September, 2006.

Thomas B. Getz
Chairman

Graham J. Morrison
Commissioner

Clifton C. Below
Commissioner

Attested by:

Debra A. Howland
Executive Director and Secretary